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INTERNATIONAL BUSINESS MACHINES
CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re IBM Subpoena in the matter of:

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Plaintiff,

vs.

PLATFORM SOLUTIONS, INC.

Defendant.

CASE NO. 5:07-mc-80174-JW PVT

Underlying action pending in the United
States District Court for the Southern District
of New York, CASE NO. CV 06-13565 SCR

**DECLARATION OF RICHARD W.
ERWINE IN SUPPORT OF PLAINTIFF
IBM'S OPPOSITION TO HEWLETT-
PACKARD'S MOTION TO MODIFY
SUBPOENA AND FOR A PROTECTIVE
ORDER**

Date: October 23, 2007

Time: 10:00 a.m.

Court: Courtroom 5

Before: The Honorable Patricia V. Trumbull

I, Richard W. Erwine, declare as follows:

1. I am a member of the bar of the State of New York, and an attorney with Quinn Emanuel Urquhart Oliver & Hedges, LLP, counsel for International Business Machines ("IBM") in this action and in the underlying litigation *International Business Machines Corporation vs. Platform Solutions, Inc.*, currently pending in the United States District Court for the Southern District of New York, CASE NO. CV 06-13565 SCR. I have personal knowledge of the facts set forth herein, and if called and sworn as a witness, I could and would testify competently thereto.

2. On May 31, 2007, IBM served a subpoena ("the Subpoena") on Hewlett-Packard Company ("H-P"). On June 29, 2007, Angelique Kaounis called me to request a retroactive extension for H-P's objections to the Subpoena, which IBM declined to grant.

3. On July 5, 2007, H-P and IBM conferred for the first time regarding the scope of the Subpoena. The conference lasted approximately one and a half hours, and addressed each of the document requests in the Subpoena. During this conference, IBM offered to narrow the scope of the Subpoena. IBM also told H-P that it sought responsive documents located in H-P's European offices. At the end of the conference, IBM asked H-P to withdraw its motion as premature. H-P declined, but offered to move back the hearing date on its motion.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and accurate.

Executed this 2nd day of October, 2007 at New York, New York.

By:



Richard W. Erwine